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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,068	11/27/2001	Steven Reynolds	INTE.19USU1 (ITC 4)	1074
43997	7590	08/11/2004	EXAMINER	
OPTV/MOFO C/O MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD, SUITE 300 MCLEAN, VA 22102			SALCE, JASON P	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/996,068

Applicant(s)

REYNOLDS ET AL.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 6-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11 and 12.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 1/21/04 was filed after the mailing date of the Non-Final Office Action on 8/6/03. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 6,408,437) in view of MacInnis (U.S. Patent No. 6,487,723).

Referring to claim 6, Hendricks discloses audio, video and metadata content and a menu indicating the contents of said audio, video and metadata content (see Figure 12b for a menu, which contains the video ("Program in Progress"), audio (the audio that accompanies the "Program in Progress"), and metadata (the program descriptions, e.g. "NBC Nightly News (NBC)").

Hendricks also discloses transferring preloaded metadata associated with said broadcast stream to a receiver (see Column 7, Lines 20-27 for sending a package of menus, programs, advertisements and a program control signal to a receiver).

Hendricks also discloses storing the preloaded metadata in the receiver (see Column 10, Lines 2-3).

Hendricks also discloses receiving said broadcast stream (see Column 9, Lines 62-67).

Hendricks also discloses displaying said menu wherein said menu includes an icon representing said preloaded metadata (see Column 10, Lines 14-26).

Hendricks also discloses receiving a user input (see Column 10, Lines 37-40).

Hendricks also discloses rendering said preloaded metadata during airing of said broadcast stream in response to said user input (see Column 10, Lines 25-36 and also note Figure 12b for displayed a program that is currently being broadcasted while displaying the menu with the preloaded metadata).

Hendricks further discloses that the system can adapt to the requirements of an individual set top box (see Column 9, Lines 2-6), but fails to discloses that a receiver is capable of checking stream type to determine which streams may be used by said receiver prior to transmission of said broadcast stream. MacInnis discloses downloading a requirements table for different types of data, and using such a table for checking stream type to determine which streams may be used by said receiver prior to transmission of said broadcast stream (see Column 4, Lines 10-12, 22-30 and 63-66).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the broadcast package delivery system, as taught by Hendricks, utilizing the receiver compatibility table, as taught by MacInnis, for the purpose of selectively downloading different versions of software modules and data

modules to a variety of potentially different terminal types (see Column 1, Lines 15-18 of MacInnis).

3. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 6,408,437) in view of Knudson et al. (U.S. Patent No. 6,536,041) in further view of MacInnis (U.S. Patent No. 6,487,723).

Referring to claim 7, Hendricks discloses an audio and video source having an output (see Column 6, Lines 19-26).

Hendricks also discloses metadata used in packaging audio, video and metadata (see Column 6, Lines 51-53).

Hendricks also discloses a framework controller that receives said video source, audio source, and metadata source and produces an omnimedia package integrating said outputs of said video source, said audio source, and said metadata source into a framework (see Column 6, Lines 33-36).

Hendricks also discloses a framework definition module that interfaces with said framework controller and defines all content to be used in said omnimedia package (see Column 6, Lines 48-51 and Lines 63-65), which comprises various stream types (see again Column 6, Lines 33-36).

Hendricks also discloses a delivery module that receives said omnimedia package from said framework controller and transmits said omnimedia package to a plurality of receivers (see Column 7, Lines 63-67 and Column 8, Lines 1-9).

Although Hendricks discloses the use of metadata in creating a package of programming signals, Hendricks fails to specifically disclose a separate metadata

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source having an output. Knudson discloses different metadata sources that provide both program schedule information and real-time data (see Figure 1 and Column 5, Lines 25-62 and Column 6, Lines 26-30).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the operations center, as taught by Hendricks, using the separate metadata source, as taught by Knudson, for the purpose of providing real-time data to supplement the program listings data used in interactive television program guides (see Column 1, Lines 9-12 of Knudson).

Hendricks further discloses that the system can adapt to the requirements of an individual set top box (see Column 9, Lines 2-6), but fails to disclose that a receiver is capable of checking stream type to determine which streams may be used by said receiver prior to transmission of said broadcast stream. MacInnis discloses downloading a requirements table for different types of data, and using such a table for checking stream type to determine which streams may be used by said receiver prior to transmission of said broadcast stream (see Column 4, Lines 10-12, 22-30 and 63-66).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the broadcast package delivery system, as taught by Hendricks, utilizing the receiver compatibility table, as taught by MacInnis, for the purpose of selectively downloading different versions of software modules and data modules to a variety of potentially different terminal types (see Column 1, Lines 15-18 of MacInnis).

Referring to claim 8, see the rejection of claim 7 for a receiver (that receives the omnimedia package) that is capable of checking stream type to determine which streams may be used by said receiver prior to transmission of said broadcast stream.

Hendricks discloses rendering selected streams of said various streams (see Figure 12b), and that said receiver further coupled to at least one user input device that provides interactivity between said viewer and said receiver (see Column 12, Lines 38-40).

Referring to claim 9, Knudson discloses synchronizing at least one metadata stream type with an event (see Column 12, Lines 38-67).

Referring to claims 10-11, see the rejection of claims 7-8, respectively.

Allowable Subject Matter

4. Claims 1-5 are allowed.

The following is an examiner's statement of reasons for allowance:

The prior art of record fails to anticipate or rendered obvious a system that compares and converts audio, video and metadata formats to a proper audio, video and metadata transmission format according to the streams types that are compatible with a specific type of receiver.

Many references contain packaging signals (audio, video and metadata (EPG or real-time program related data)) and filtering signals based upon version type and amount of available memory (see Hendricks and MacInnis combination above), but fail to discloses comparing and converting the formats of these data streams (audio, video and metadata) in accordance with a particular transmission format.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 4th, 2004


CHRIS GRANT
PRIMARY EXAMINER